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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: A.R. Cohn et al. Attorney Docket No.: LIU117961
Application No.: 10/047,523 Group Art Unit: 3652
Filed: October 25, 2001 Examiner: S.A. Bratlie
Title: WHEELCHAIR LIFT ASSEMBLY HAVING A LIFT ARM SUPPORT

RESPONSE

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April 28, 2003

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TO THE COMMISSIONER FOR PATENTS:

Claims 1-23 are pending in the application. In a final Office Action mailed October 28, 2002, all claims were rejected under 35 U.S.C. § 103(a). In view of the comments that follow, applicants respectfully request reconsideration and submit that all claims are in condition for allowance. Before addressing the specifics of the final Office Action, applicants briefly summarize one embodiment of the present application.

As is set forth in Claim 1, the present application is generally directed to a wheelchair lift assembly that includes first and second attachment arm assemblies extending between a reciprocating platform and a lift platform. The lift platform is held in a substantially horizontal first plane as the lift platform is moved between raised and lowered positions. The wheelchair lift assembly also includes a support device coupled to one of the first and second attachment arm assemblies for supporting one of the first and second attachment arm assemblies and *maintaining* the lift platform in a second plane substantially parallel to the first plane if at least a portion of the other of the first and second attachment arm assemblies fails.

As a non-limiting example and for descriptive purposes only, if one of the balance arm pin 44 fails, the lift platform 28 is maintain level by the balance arm located on the opposite side of the life platform 28. Although the lift platform 28 may drop slightly from its original

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supported position, the support device 20 maintains the lift platform 28 in a plane substantially parallel to its original horizontal plane. Applicants respectfully submit none of the foregoing references, whether taken individually or hypothetical combination, teach or suggest such a support device.

Turning to the specifics of the final Office Action, Claims 1-23 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 2,732,960, issued to Nilson, in view of U.S. Patent No. 5,556,250, issued to Fretwell et al., U.S. Patent No. 3,700,123, issued to Corley, Jr., and Japanese Patent No. 457685, issued to Torii. The final Office Action sets forth the position that Nilson discloses a substantially similar lift having parallel arms 24 and 29 and a support member 32. Fretwell et al. has been cited for the purpose of establishing use of a similar lift for a wheelchair. The final Office Action admits that Nilson lacks a U-shaped support bracket. Corley, Jr., has been cited as disclosing U-shaped brackets 35 and 36 at the ends of parallel arms. The final Office Action sets forth the position that it would have been obvious to substitute a U-shaped bracket as taught by Corley, Jr., "if so desired." Applicants respectfully disagree.

Applicants respectfully submit that the final Office Action has failed to establish a *prima facie* case of obviousness. To establish *prima facie* obviousness of a claimed invention, all claim limitation must be taught or suggested by the prior art. *In re Royka*, 490 F2d 981, 180 U.S.P.Q. 580 (CCPA 1974). Thus, as the PTO recognizes in MPEP § 2143.03, all claim limitations must be taught or suggested by the prior art. Applicants submit that none of the references cited in the final Office Action teach or suggest a support device "supporting one of the first and second attachment arm assemblies and *maintaining the lift platform in a second plane substantially parallel to the first plane if at least a portion of the other of the first and*

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second attachment arm assemblies fails." Such a claim limitation is generally set forth in independent Claims 1, 11, and 15 as originally filed.

Nilson, the primary reference, generally discloses a loading device for a vehicle that includes a pair of members 24 pivotally attached to a frame 20. Extending between the members 24 is a cross-member 32. Nilson expressly teaches that the cross-member 32:

"[A] assists in keeping the various elements 24 and 29, etc., in direct alignment as shown in Figure 6 and substantially at this point through the rigidifying [sic] affect of these members when the pivotal points are on dead center."

Thus, Nilson expressly teaches that the cross-member 32 is for alignment and stiffening of various elements of the lift. Note that there is no teaching or suggestion within Nilson of either the need or desire to include supports whether it is a U-shaped bracket or any other type of support device. Thus, if one of the attachment pins 25 or 30 attaching the platform 26 to either one of the attachment arms 24 and 29, the platform 26 would pivot about the other remaining attachment pin 25 or 30. As an example, if the pin 25 failed, then the platform 26 would pivot about the attachment pin 30. Modifying Nilson, as suggested by the final Office Action, to include certain aspects of Fretwell et al., Corley, Jr., or Torii fails to teach or suggest the embodiments of Claims 1, 11, and 15.

Fretwell et al. disclose a wheelchair lift that includes a rod 22 located and extending parallel to sides of lifting arms 21. The rod 22 and lifting arms 21 are pivotally attached to a platform 28 by pivot pins 2 and 24. Note that there is no teaching or suggestion within Fretwell et al. of either a support device or support beams for maintaining the lift platform in a second plane substantially parallel to a first plane if at least a portion of the other of the first and second attachment arm assembly fail, as generally set forth in Claims 1, 11, and 15. In fact, should either one of the attachment pins 2 or 24 fail, the platform 28 would pivot about the other remaining attachment pin. As an example, should the attachment pin 2 fail, the platform 28

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would pivot about the attachment pin 24. Thus, a hypothetical combination of Nilson and Fretwell et al. does not teach or suggest all of the claim limitations as set forth in Claims 1, 11, and 15. Moreover, a hypothetical combination of Nilson, Fretwell et al., and Corley, Jr., also fails to teach or suggest all of the claim limitation of the foregoing claims.

Corley, Jr., is cited in the final Office Action for the purpose of establishing U-shaped brackets at the end of parallel arms. Applicants respectfully disagree. Specifically, Corley, Jr., expressly teaches a "horizontal platform structure . . . includes sidewalls 35 which are *welded* to the exterior surfaces of the side plates 34 and . . . flanges 36." Column 4, lines 41-46 (emphasis added). Thus, Corley, Jr., does not teach U-shaped brackets at the end of parallel arms as alleged in the final Office Action, but instead teaches sidewalls 35 welded to an exterior surface of side plates and flanges 36 that are apparently similarly fashioned to the structure of the lift.

Moreover, even assuming that Corley, Jr., teach U-shaped brackets, a hypothetical combination of Nilson, Fretwell et al., and Corley, Jr., fails to teach or suggest a support device maintaining the lift platform in a second plane substantially parallel to the first plane if at least a portion of a first and second attachment arm assembly fails, as generally set forth in the independent claims of the present application. In that regard, Corley, Jr., teaches a lift platform 31 pivotally attached to lower and upper attachment arms 38 and 39 by pivot pins extending through flanges 36. Note that if one of the attachment pins coupling the attachment arms 38 and 39 to the flange 36 fails, the platform 31 would pivot about the other remaining attachment pin. As an example, if the upper attachment pin extending between the flange 36 and the upper attachment arm 39 failed, the platform 31 would pivot about the lower attachment pin extending between the flange 36 and the lower attachment arm 38. Thus, because a hypothetical combination of Nilson, Fretwell et al., and Corley, Jr., fails to teach or suggest each and every

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claim element of Claims 1, 11, and 15, applicants respectfully submit that there can be no *prima facie* case of obviousness.

Torii has been cited by the final Office Action for the purpose of establishing use of "U-shaped brackets 43a, 43b between the ends of parallel link(s)." Applicants respectfully submit that the final Office Action had mistakenly characterized elements 43a and 43b as brackets. Specifically, elements 43a and 43b are not brackets, but are expressly described by Torii as *cams*. Moreover, there is no teaching or suggestion within Torii of support brackets for a ramp assembly, as generally set forth in Claims 1, 11, and 15. Thus, a hypothetical combination of Nilson, Fretwell et al., Corley, Jr., and Torii fails to teach or suggest all of the claim limitations of Claims 1, 11, and 15. Accordingly, applicants respectfully note that the final Office Action has failed to set forth a *prima facie* case of obviousness, as both required in the MPEP and by the Federal Circuit.

In view of the above remarks, applicants respectfully submit that the rejection of Claims 1-23 under 35 U.S.C. § 103(a) is improper because a *prima facie* case of obviousness has not been established. Moreover, applicants note that a hypothetical combination of Nilson, Fretwell et al., Corley, Jr., and Torii fails to teach or suggest all of the claim limitations as set forth in Claims 1, 11, and 15. Accordingly, applicants respectfully requests that the rejection of all claims under 35 U.S.C. § 103(a) in view of a hypothetical combination of Nilson, Fretwell et al., Corley, Jr., and/or Torii be withdrawn.

CONCLUSION

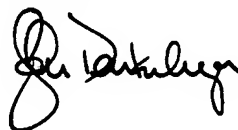
In view of the foregoing remarks, applicants respectfully request reconsideration and allowance of all claims. Further, applicants respectfully submit that the dependent claims that depend from either Claim 1, 11, or 15 are thus allowable for the reasons discussed above. In addition, the dependent claims have further limitations that distinguish over the cited references

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of record, whether taken individually or in hypothetical combination. Therefore, applicants respectfully submit that the dependent claims in the present application should also now be found allowable. The Examiner is invited to telephone the undersigned attorney if there are any remaining issues.

Respectfully submitted,

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